



Cost, Price, and Finance DFARS Cases of Interest

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OVERVIEW

- ▶ DFARS Final and Interim Rules
- ▶ DPAP Memos
- ▶ DPAP Reorganization – Cost, Price, & Finance Office



Levy on Payments to Contractors

- ▶ DFARS 2004-D033, Interim rule published on 09/01/05
 - Addresses the impact of IRS levies on contract payments
 - Requires DoD contractors to promptly notify the contracting officer when a levy will jeopardize contract performance
 - Contracting Officer will promptly review the contractor's notification.
 - National Security impact
 - Significant additional costs to DoD
 - DPAP is the decision authority
 - The draft final DFARS rule has been agreed to by the DAR Council.



Business Restructuring Costs-Delegations of Authority to Make Determinations Relating to Payment

- ▶ DFARS Case 2004-D026, Final rule published on 2/23/2006
- ▶ Finalizes an interim rule published on 7/26/05
- ▶ Addresses procedures for allowing contractors external restructuring costs when savings will result for DoD
 - Authorizes the Director of DCMA to make determinations of savings that are expected to be less than \$25 million over a 5 year period
 - Clarifies requirements for projected restructuring costs and savings to be computed on a present value basis.



Incremental Funding of Fixed Price Contracts

- ▶ DFARS Rule 1990-037, Final rule published on 4/12/06.
 - Impacts 232.001, 232.703, and 252.232-7007
 - Specifies those situations where incremental funding of fixed price contracts is permitted.
 - Requires that incrementally funded contracts be fully funded as soon as funds are available.
 - Revises language to emphasize that contractor is “not authorized” to continue work beyond the funding on the contract.



(T) Cost Principles and Procedures

- ▶ DFARS Case 2003-D036, Final rule published on 11/1/2004
- ▶ DFARS Transformation Case related to DFARS 231
 - Deletes text at 231.205-10, Cost of Money, which duplicated language already at 230.70.
 - Clarifies 231.205-22, Legislative lobbying costs, to specify that these costs are statutorily unallowable
 - Revises 231.205-70, External restructuring costs, to
 - Eliminate unnecessary references
 - Delete unnecessary text at 231.70(c)(1)(iv)(A) and (B)
 - Relocate text at 231.205-70(d) to PGI



(T) Contract Financing

- ▶ DFARS Case 2003-D043, Final rule published on 12/20/2005
- ▶ DFARS Transformation Case related to DFARS 232
 - Deletion of unnecessary text throughout DFARS 232
 - Moving a variety of text to PGI
 - Revisions to, amendments to, and clarifications of text located throughout DFARS 232.



(T) Payment and Billing Instructions

- ▶ DFARS Case 2003-D009, Final rule published on 10/7/2005
 - DFARS Transformation - Impacts DFARS 204, 215.204, 252.204-7006, and Appendix F
 - Relocates text to PGI (204.201 & 202, 204.7103-2, 204.7104-2, 204.7107, and 204.7108)
 - Clarifies the definition of “accounting classification reference number” in 204.7101
 - Adds text to 204.7103-1 addressing contract type in the establishment of CLINs
 - Clarifies 204.7106 to indicate that modifications to decrease obligations shall not be issued unless sufficient unliquidated obligations exist or the purpose is to recover monies owed to the Govt
 - Adds 252.204-7006 which addresses CLIN information needed in contractor payment requests
 - Amends the App F, Material Inspection and Receiving Report instructions to address electronic submissions.



Award Fee Contracts

DPAP Memorandum, dated March 29, 2006

- ▶ GAO issued report that is critical of DoD's use of Award Fees (Dec 05)
- ▶ OSD issues responsive policy changes (DPAP March 29, 2006 memo)
 - Links award fees to desired outcomes
 - Award Fees must be commensurate with contractor performance
 - Contractor performs to desired outcomes
 - Restrictions imposed on "rollover"
 - Award & Incentive Fee CoP <https://acc.dau.mil/awardandincentives>
- ▶ Continued Focus
 - Mr. Krieg testifies before Senate (Apr 06)
 - Additional Congressional Hearings (September 2006)
 - New Legislation, 2007 appropriation and authorization acts
 - Will result in several DFARS cases, potential for FAR cases



Requirement for Electronic Submission of Payment Requests: DPAP Memorandum, dated Jun 27, 2005

- ▶ Procedures for contractors and government to use when they are unable to submit, or DoD is unable to receive, the payment request electronically.
 - Contractor is required to use a method that is mutually agreed to by the contractor, Contracting Officer, the contract administration office, and the payment office.
- ▶ Includes a Defense Finance and Accounting Service, Columbus (DFAS-C/CO) memorandum, dated Jun 07 2005 to contractors subject to MOCAS
 - Effective 8/1/05, DFAS will reject any non-electronic invoices submitted by MOCAS contractors unless the contractor has provided documentation/rationale to the contracting officer showing that it is unable to do so.